22. Rs. 400 under "7—Excise—Service Labels"

Mr. M. Raman Menon *(Commissioner of Excise)*: Sir, I rise to move for an additional allotment of Rs. 400 under "7—Excise—Service Labels". The necessity for this grant has been pointed out in the note to the Standing Finance Committee. I request the House may be pleased to sanction the allotment.

Demand put and carried.

23. Rs. 4,829—7—9 under "7—Excise Refunds"

Mr. M. Raman Menon *(Commissioner of Excise)*: Sir, I rise to move for an additional allotment of Rs. 4,829—7—9 under "7 Excise—Refunds". The necessity for the supplementary grant has been explained in the notes to the Standing Finance Committee. I request the House to sanction the allotment.

Demand put and carried.

24. Rs. 189 under "8—Matches—1—Recurring charges—Temporary Establishment"

Mr. M. Raman Menon *(Commissioner of Excise)*: Sir, I rise to move for a grant of Rs. 189 under "8 Matches—1—recurring charges—Temporary Establishment." The necessity for this grant has been explained in the note to the Standing Finance Committee. I request the House may be pleased to grant the allotment.

Mr. V. K. Bhaskara Menon *(Cranganur)*: May I know whether there is one Inspector to every match factory?

Mr. M. Raman Menon *(Commissioner of Excise)*: For each factory there is one supervising officer in the grade of a petty officer.

Demand put and carried

LEGISLATIVE BUSINESS

The Cochin Kuries Bill*

Mr. M. Sivarama Menon *(Advocate-General)*: Sir, I beg to present before this House the report of the Select Committee on the Cochin Kuries Bill. That report has been in the hands of the hon'ble members, and I am sure hon'ble members would have noted from the report the nature of the changes made by the Select Committee. But before I move that the Bill as reported upon by

*Appendix II.

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the Select Committee may be taken up for consideration, I desire to make a few observations upon certain salient features of the Bill and give certain indications as to the position that will be taken up by Government in the course of the consideration of this Bill, so that the position may be fully clarified to enable the House to proceed with the Bill as expeditiously as possible.

The first aspect of the Bill upon which I wish to state a few words is the definition of the term "approved security" as it now appears in the Bill. The Select Committee has widened the scope of the term in such a remarkable way that no reasonable complaint can be raised by the foremen with regard to the security that has to be offered. Even *verumpattam* rights have been included in the term "approved security" by the definition incorporated in the Bill. So far as *kanam*, *panayam*, *adima*, and other cognate rights of the tenants are concerned, every tenant has got substantial interest in them. Even in the case of *verumpattam* tenants, there will be no difficulty hereafter. The marketable interest of the tenant in such holdings can be offered and accepted as security, provided the interest comes up to a certain standard as laid down in the definition.

The Select Committee took care in including within the scope of the definition of the term "approved security" all sorts of known tenures with a condition that the valuation of the improvements upon such holdings should bear a certain proportion to the amounts that are sought to be secured and that such value should be determined by the Superintendent of Registration, who is the Kuri Registrar. Therefore, from the point of view of enabling every person who has any interest in land to draw monies from kuries, large facilities have been granted by this definition as modified by the Select Committee. The foreman also can take full advantage of this provision. Over and above these interests in property, one other feature that has been brought to the notice of Government as well as the Select Committee is the fact that at present foremen are advancing large amounts to the subscribers on the security of Kuri *kaipadas*. That means, at a time when the subscriber is in needy circumstances, he pledges the *kaipada* and gets money from the foreman, and when he draws the kuri, he pays off the amount he has already taken and gets the balance. That is sound security. Government are, therefore, pleased to accept investments of money on the security of kuri *kaipadas* by the kuri foremen as an approved security for the purposes of this Bill. Under the Indian Insurance Act, we find advances are made by way of loans on policies. Such advances have been recognised as good investments. But, of course, the amount of money advanced depends upon the surrender value of the policy.

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As a matter of safeguard, Government holds the view, as has been foreshadowed by one of the amendments tabled, that the value of the kuri *kaipada* should exceed by at least 1/3 of the amount that is sought to be secured by pledging the *kaipada*. Government are inclined to accept that position also.

The next question that has been agitated before the Select Committee and Government is with regard to the retrospective operation of certain provisions in the Bill. I think there is a misconception based upon a notion that several settled transactions in the past are going to be unsettled by this Bill. Every kuri has got a lease of life as fixed in the *vaimpu*. A kuri is in essence and reality a continuing transaction. It, no doubt, consists of a bundle of transactions between the foreman on the one side and the subscribers on the other. One ticket by itself does not constitute or exhaust the kuri. It is, therefore, not correct to treat one instalment of a kuri as a closed transaction, since the subscriber has to pay for each of the succeeding instalments. The obligations of the foreman under a kuri continues till the kuri terminates even without reckoning, *viz.*, liabilities, if any, to be satisfied thereafter. If a kuri that has been started prior to the enactment of a piece of legislation is sought to be affected so far as the future instalments are concerned, by that new legislation and is not to be touched upon as regards the past instalments, you cannot say that there is a retrospective application. You cannot say that, because a kuri has been started prior to the new enactment, even in regard to future instalments the new enactment should not apply and in case it applies you cannot term it as a retrospective application in the sense that it unsettles past transactions. For instance, a person is born today and a law is enacted 5 or 10 years hence, and if it affects all persons that exist on that day, can you say that because a man was born previous to the enactment of the legislation, the law should not apply to him? Let us take another case where several companies have been formed and a law has been enacted to govern the working of these companies. Suppose the legislature finds out of experience that certain new provisions have to be introduced in the law in the interests of the general public, and then they seek to introduce certain provisions which did not exist in the old law, can we say that the legislature cannot legislate for those companies that came into being prior to the new legislation? In the Indian Companies Act, provisions regarding reserve fund have been recently introduced. Those provisions did not exist in the old Companies Act. Under the new law, all banks are compelled to have 20 per cent out of the net profits set apart towards the reserve fund. Can we say that, because some of the banks were started prior to the enactment of the new law, the new law should not apply to those

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banks, and in case the new law applies to the companies or banks that existed prior to the passing of the new Act, will that tantamount to a retrospective application in the sense in which the objection is raised with regard to this Bill? Where persons are dealing with money belonging to others and where a certain sort of control is found necessary, desirable and highly expedient in the interest of all concerned, the purpose with which the retrospective operation in a very limited sphere is introduced must be considered on its own merits. If you consider this question in that aspect, you will find that there are only 7 sections in the whole Bill which have some sort of retrospective operation in a very loose sense of the term.

Sub-clause (2) of clause 12 says: "Sub-section (1) shall apply only to kuries started on or after 1st Kumbham 1115, and where the first drawing of any such kuri has been conducted prior to the commencement of this Act, the foreman shall, within six months from the coming into force of this Act or within such further time as Government may, by notification in the Cochin Government Gazette, deem fit to grant in any particular case, furnish the security as specified in sub-section (1) to the extent of the future subscriptions due in respect of one ticket." The security demanded in sub-section (1) is "approved security." Now you can say that kuries which have been started after the 1st of Kumbham 1115 are sought to be affected by this section. Why is it that you seek to make the law applicable to those kuries, while the Bill is to come into operation only on a future date? The answer is this. Government passed a proceedings to the effect that it is high time that the kuri legislation ought to be reviewed and revised, and appointed a committee for that purpose. That committee published a certain questionnaire in the Government Gazette covering new and wide fields with regard to kuries, requesting those interested in kuri legislation to furnish answer to the questions to aid them in their deliberations. From this, the public knew as a matter of fact that a legislation is impending and that it will soon be on the legislative anvil. The trend of the questions indicated that that legislation may affect certain fundamentals which did not exist in the old Act. The questions were circulated for individual opinion also. It had wide publicity, and a common cause was espoused by the foremen before the said committee. The subscribers also had their case placed before that body. Several witnesses gave evidence also before the committee. If, with the full knowledge that there is the likelihood of a change in the law with regard to kuries, certain persons embark upon starting kuries with the deliberate object of stifling the legislation when it is passed, I put it to this House, is it

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up to the hon'ble members of this House to say that those people should be saved? Have they not tried to steal a march over this House by that conduct? Government did not go beyond the stage when there was a deliberate publicity to the information that this piece of law is going to be re-enacted. That is why the 1st of Kumbham 1115 is fixed in this sub-section. In what respects the impending change would be, those persons must have had the patience to wait and see as reasonable and prudent men and as good citizens. If they solemnly thought that they will be able to over-ride the decision of this House by such a manoeuvre, I dare say that this House will have the courage with equal solemnity to bring them within the fold of this Bill, not to defeat the course of law, but in furtherance of justice. If a person simply on account of the fact that a new law is going to be enacted started a kuri under the existing statute—a kuri which lasts 20 years or more—is this piece of legislation to be a dead letter so far as that kuri is concerned? Does the House think that those persons are to be protected? Government thought, after careful consideration, that this Bill should come into force in the case of all kuries started after the 1st of Kumbham 1115.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* Suppose the case is that the foreman should be protected in the interests of the subscribers themselves? If the foreman is not protected, the kuri will collapse and the effect will be the subscribers stand to lose.

Mr. M. Sivarama Menon *(Advocate-General):* The interests of subscribers and the interests of foremen were both kept in view by Government, when they decided to give retrospective effect in the case of kuries started on or after the 1st of Kumbham 1115. Government have to see that kuries are run smoothly in the interests of the foremen as well as the subscribers. Therefore, they thought that these kuries must be brought within the purview of this Bill in order that nobody may be able to defeat the purposes of the law in the interests of the subscribers. But Government did not wish to go beyond the 1st of Kumbham 1115 for the obvious reason that persons who have started kuries under the existing law prior to that date, when Government's intention to change the law was not announced, were within their legitimate rights to do so.

Mr. President: Did you not provide for retrospective effect in the *Verumpattomdars'* Bill that *jenmies* cannot evict tenants whose tenancies were created prior to such and such dates? It is the same application here.

Mr. M. Sivarama Menon *(Advocate-General):* Yes, Sir. There it was provided that after such and such a date, in spite of the

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fact that the landlord has reduced the property to his possession, the landlord has to give possession of the property back to the tenant.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* I want Government to assure the House that it is in the interests of the subscribers that that has been so laid down.

Mr. M. Sivarama Menon *(Advocate-General):* Yes, it is in the interests of the subscribers themselves that retrospective effect is sought to be given to kuries started on or after 1st Kumbham 1115. My only attempt now is to point out that under clause 12 (2) what is aimed at is only to compel the foreman to furnish the security as specified in sub-clause (1) of that clause to the extent of future subscriptions due in respect of the ticket or tickets over and above the *kainarak* and that too in respect of kuries started only on or after 1st Kumbham 1115, *i.e.*, from the date the committee issued their questionnaire. Even in their case, some time is given. The time that is given for furnishing security is 6 months. What I mean to say is, the foremen must be in a position to furnish the security within 6 months. If they cannot furnish security within 6 months, what is the position? It is that the monies that they have drawn have been otherwise utilised and that they are not in a position therefore to furnish security. It is better that in such cases the kuri is wound up immediately rather than allow the foreman to collect more, misspend the same and prolong the final collapse. Government stick on to the view that, in the case of all kuries started after 1st Kumbham 1115, the foreman must be able to furnish the security within six months and that he cannot get further time.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* Suppose he is not able to furnish security. What is the result?

Mr. M. Sivarama Menon *(Advocate-General):* He will not be in a position to conduct the kuri. It is better that such kuries are wound up soon so that the subscribers will have the consolation that, if at all they lose, they will have to lose only what they have already paid and not the money that they will have to pay by way of future instalments and risk it in the hands of the insolvent foreman.

Mr. President: If there is no security with the foreman for the monies he has already collected, in the interests of the subscribers the kuri should be wound up.

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* So that they may not lose more.

Mr. M. Sivarama Menon *(Advocate-General):* Under sub-clause (3)," in the case of kuries started after the commencement of

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this Act and in cases where the foreman contravenes the provisions of sub-section (1), he shall be liable to a fine not exceeding five hundred rupees and the kuri shall be voidable at the instance of any subscriber". Nobody is going to fine him for having conducted a kuri; but if he conducts a drawing without furnishing the security, then and then only he will be punished. How can you say that this is a retrospective application?

Then there is a proviso to clause 13 to the effect, "Provided that the foreman, in a kuri started before the commencement of this Act, shall not be liable to account for any commission earned by him in excess of the maximum specified in the Schedule in respect of instalments prior to the commencement of this Act." At present the commission is a matter of contract as provided for in the *vaimpu*. With regard to the instalments that have already passed, they are not going to be touched at all. The appropriations made by them will hold good and remain intact. With regard to the future instalments alone, the Bill says that the commission should be rated in accordance with the Schedule to this Bill. Therefore, this provision also cannot be said to have a retrospective effect.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* To whom should the difference go?

Mr. M. Sivarama Menon *(Advocate-General):* The difference should go as *veetha palisa* to the non-prized subscribers. Let it be understood that it is a matter which has engaged our attention.

Mr. President: I think this sort of detailed discussion can take place at the time when we are on the clauses.

Mr. M. Sivarama Menon *(Advocate-General):* Then sub-clause (2) of clause 13 lays down: "No foreman shall, appropriate any portion of the net profits accruing from the kuri other than the commission till after its termination except to the extent of the income-tax, if any, payable upon such profits:

Provided that this sub-section shall not apply to profits earned prior to the commencement of this Act."

Profits that are earned from the date this Bill becomes law are alone touched upon. So there is no retrospective operation with regard to this provision also.

Then, there is clause 14 (3) which states that the provisions of sub-section (2) shall apply to the prizes drawn subsequent to 18th Thulam 1115 and remaining unpaid to the prized subscriber, and such monies shall be deposited in the manner specified in sub-section (2) within one month from the commencement of this Act.

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What is the reason for a change of date here? It is because Government issued a notification on that date to the effect that these monies should be deposited in banks as deposits to be readily available to the prized subscribers when they furnish the security. Therefore, the date when they began to be compelled to do that was put here. It does not affect the substantive rights of the parties.

There are some kuri *vaimpus* where there are contracts to the effect that, if a defaulted ticket is drawn, the subscriber is entitled to the cash contributions which he has made. There are certain other *vaimpus* where it is stipulated that these cash contributions need be paid only at the termination of the kuri, even if the ticket is drawn earlier. The Select Committee provided that every defaulter subscriber should get money the moment the ticket is drawn. Sub-clause (2) of clause 21 makes applicable sub-clause (1) only to defaulted tickets drawn after the commencement of this Act. That is, no retrospective operation with regard to past transactions but only with regard to the defaulted tickets which are drawn after the commencement of the Act. It will also be found from sub-clause (3) that, where the ticket of a defaulter non-prized subscriber or of the person substituted in his place has been drawn prior to the commencement of this Act, the defaulter non-prized subscriber shall be entitled to recover from the foreman his contributions subject to such deductions as may be provided for in the *vaimpu*. That is the existing provision also. We have not touched it. Therefore, in future, the defaulter subscriber will have the benefit of getting the cash amount subscribed by him when his ticket is drawn.

Then we come to clause 22 (3). The clause lays down: "Where the foreman has drawn the prize amount in respect of a ticket other than the *kainarak*, prior to the commencement of this Act, he shall furnish security as specified in sub-section (2) within six months from the commencement of this Act." There are cases where the foreman himself happens to be the prized subscriber. The position is this. If the foreman himself is the prized subscriber, under the present law, he need not furnish any security at all. There is no reason why he should not be treated in the same way as any other prized subscriber. The monies drawn by him are monies due to the kuri. If he draws the money just as any other prized subscriber, then he should also furnish security. That is the provision.

Mr. M. K. Devassy *(Adur)*: Why should you give retrospective operation there?

Mr. M. Sivarama Menon *(Advocate-General)*: I shall explain. Where the foreman has drawn the prize amount in respect of a ticket other than the *kainarak* prior to the commencement of

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this Act, he need furnish security only in respect of future instalments to be subscribed for by him. If I have taken money out of kuri funds as foreman, I have a liability to the non-prized subscribers. When the foreman insists on other prized subscribers to furnish security in so far as the future instalments are concerned, why not he also do the same? There is no retrospective operation as long as the liability is only to furnish security for the future subscriptions.

Mr. C. R. Iyyunni *(Trichur-South):* Do you mean to say that security was not asked for the tickets that have already been drawn? Is it a concession granted to the foreman? Can you demand security from the foreman under the law?

Mr. M. Sivarama Menon *(Advocate-General):* The provision relates only to future subscriptions. Because there is no law compelling him to furnish the security, it is left to his sweet will and pleasure either to do it or not now.

Mr. C. R. Iyyunni *(Trichur-South):* But can you demand security for the things that have already passed?

Mr. M. Sivarama Menon *(Advocate-General):* We are only providing for what he is to do hereafter. The law now wants to step in and say in the interests of subscribers and in the interests of infusing greater confidence in kuri transactions that, if a foreman is allowed to draw monies on account of tickets drawn by him other than the *kainarak*, he must also furnish security for the future instalments.

Mr. M. K. Devassy *(Adur):* Let me explain. Those drawings were completed long long ago, and when those drawings were completed, there was no legislation also. If you are to legislate now, that will tantamount to a retrospective application.

Mr. M. Sivarama Menon *(Advocate-General):* Though the drawing was completed before the commencement of this Act, the amount that was allowed to be appropriated is to be paid in so many instalments hereafter. Therefore, the transaction is not closed, and the security, as I have explained, is only for the future subscriptions.

Mr. M. K. Devassy *(Adur):* That is not my point. My point is, now that he has drawn the amount under the impression that he need not furnish security, there is a complete transaction for the purpose of this Act, so far as drawing is concerned. There was no law requiring the furnishing of security. Why should you give retrospective effect to this section, especially in view of the fact that you do not give retrospective effect to the section which says that he should furnish security to start a kuri? The reason for both should be the same. If a foreman has started a kuri before this legislation, when he was not required to furnish security to start a kuri, you say

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certainly that section should not be given retrospective effect, because he has already started the kuri. For the same reason, though he has drawn the amount before the commencement of this Act when he was not required to furnish security, and though he has to pay the amount in future for that ticket just as there is liability on the part of the foreman to conduct the kuri in future, if you do not require the foreman to give security to start the kuri and if you do not want to give retrospective effect to that provision, I submit the same principle should be given effect to in this case also.

Mr. M. Sivarama Menon *(Advocate-General):* You should know that we are not unsettling the drawing. The principle of this Bill is that no person should be allowed to draw money from the kuri effects without furnishing security; if the prize money in a kuri is to be drawn by a subscriber, he must furnish security. If the foreman is a subscriber, should he furnish security or not, or should he be exempted from the operation of this provision, simply because he is the foreman? Government thought in the interests of larger security which will foster the faith and confidence the subscriber that his investments are safe and which will in turn lead to the betterment of the foreman and the stability of the kuri, that the foreman must also be treated in the same level as any other subscriber. This is only, so far as the future instalments are concerned, in respect of a ticket drawn by him and not with regard to the past.

Mr. M. K. Devassy *(Adur):* Is there not a liability on the part of the foreman to conduct the kuri in future? Have you prescribed any security for that?

Mr. M. Sivarama Menon *(Advocate-General):* As far as possible, we are securing that liability by asking him to furnish security and make deposits of kuri money. Any way we are not upon details now. I only enunciate here the principles upon which we proceed.

Mr. M. K. Devassy *(Adur):* Should he not furnish security for the past instalments for which he has not paid the amount?

Mr. M. Sivarama Menon *(Advocate-General):* That is another point that was before the Committee. If we are to insist upon that, the officers of Government will have to find from their accounts as to whether he is a subscriber or not and what his liability is, and that will be real retrospective application which we have avoided. The Select Committee went into this matter, and they did not think it wise to go to that extent.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Certain kuries were started with the knowledge of impending legislation.

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That was one of the reasons given for giving retrospective effect. Does that reason exist in cases where the foremen drew such tickets prior to this knowledge?

Mr. M. Sivarama Menon *(Advocate-General):* It certainly exists. When this Act comes into force, with regard to the future instalments, it is laid down that he must furnish security. Therefore, that is consistent with the principle that, even though he has drawn the money under the law by which he is not compelled to furnish security, yet he has drawn the money with the knowledge as to his liability to pay the future instalments. The section only aims at securing that liability for the future. As I stated, each kuri, has got a lease of life as fixed in the *vaimpu*. You cannot say that, because a kuri was started on a particular date, no legislation that comes afterwards should affect that kuri.

Mr. V. J. Mathai *(Planters):* Suppose the foreman is not able to furnish security, what will be the effect?

Mr. M. Sivarama Menon *(Advocate-General):* Then he will have to wind up the kuri. We want to protect the interests of non-prized subscribers by asking the foreman to furnish security for amounts to be subscribed by him with respect to future instalments.

Mr. V. J. Mathai *(Planters):* If the foreman is unable to furnish security for future instalments, and if the kuries are made to collapse altogether, it will affect to the detriment of the subscribers. Will the Hon'ble Advocate-General kindly consider that aspect?

Mr. M. Sivarama Menon *(Advocate-General):* We have considered that aspect. The question remains, what did the foreman do with the money that he drew? Did he invest it properly or appropriate it for his own use?

Mr. M. K. Devassy *(Adur):* He swallowed.

Mr. M. Sivarama Menon *(Advocate-General):* If he swallowed, then such a foreman cannot be relied upon to pay the future subscriptions regularly.

Mr. President: The point is, at this stage hon'ble members may ask questions only to elucidate the points but not to raise arguments. Hon'ble members are perfectly at liberty to do that in their turn while making their speeches. We now perfectly understand that members who are prepared to upset the transactions of ten years' back in the matter of agricultural debts are not prepared to ask for security from foremen with regard to future liabilities. At this stage, I would ask the hon'ble members to confine themselves to asking questions to elucidate any point but not to simply express opinions which they can do when their opportunity comes.

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Mr. M. K. Devassy *(Adur):* The whole trouble lies in the President's remarks that the principle followed here is the one that was accepted in regard to the Agriculturists' Relief Bill.

Mr. President : I do not speak for any particular individual. The Advocate-General was on the question of the retrospective operation of certain provisions of this legislation. He has been taking pains to see that unless the foreman pays, Government are seeking to ask for security for liability that arises after the passing of this Act. That has been termed to be a very unjust retrospective effect. I only wanted to draw the kind attention of this House to the very devastating retrospective effect that they gave in the matter of Agriculturists' Relief Act, under which transactions which were settled and closed were reopened again and the landlords were made to lose huge sums of money.

Mr. C. R. Iyyunni *(Trichur-South):* Consistent with the principle that was enunciated by the Chair, let me ask one question. With regard to deposits made in a bank, may I know whether, according to the Indian Companies Act, there is any provision which compels the bank to give security in respect of that amount?

Mr. M. Sivarama Menon *(Advocate-General):* If you had the patience to hear me through, you would not have asked that question.

Mr. V. J. Mathai *(Planters):* May I respectfully submit to the Chair that the analogy of the Agriculturists' Relief Act does not hold good in this case?

Mr. President: Order, Order. I cannot allow an argument on that point.

Mr. V. J. Mathai *(Planters):* I am only submitting this point for the consideration of this House as well as of the Chair.

Mr. President: You can make the point clear in your speech.

Mr. M. Sivarama Menon *(Advocate-General):* With regard to that aspect of the matter, let me refer to clause 24 (3) of the Bill once more.

Mr. A. B. Salem *(Mattancheri):* Are we to understand that you are asking the foreman to give security when he assumes the position of a subscriber?

Mr. M. Sivarama Menon *(Advocate-General):* Yes. Clause 24 makes provision as regards suits against defaulter prized subscribers. Sub-clause (2) of that clause relates to deposits of the future subscriptions with the Registrar or investing the same in approved securities. Then there is sub-clause (3) which provides

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that the provisions of sub-clause (2) shall apply to the consolidated collection of future subscriptions from a prized subscriber made by a foreman subsequent to 18th Thulam 1115, and that such deposits and investments shall be made in the manner specified, within two months from the commencement of the Act. These are the few clauses in the Bill which have the semblance of a retrospective operation. There is one other provision, clause 67, which exists in the present Act also. That is to the effect that the sections relating to the filing of *vaimpu* and such other records under the new Bill shall apply to kuries started before the coming into force of the Act of 1107. That is a section which is not complained of by anybody. From these provisions that I have now enumerated it can be seen that no real retrospective operation has been given in the sense of unsettling past transactions, but the aim has been to provide for the future, and to safeguard the interests of the future.

One other aspect is the provision in the present Bill which requires the foreman to deposit the kuri monies that they have collected within seven days of the due date. It has been pointed out to Government that they have allowed the banking companies to attract any number of depositors and take in large amounts of deposits from the public without any sort of security. Under the Companies Act, there is a time demand liability and then a fixed demand liability and a reserve fund. That is with regard to banking companies. These companies will be under the general control of the body of directors and the shareholders who will be watching the interests of these companies. They will be very keen in the matter of getting the dividend so that no mismanagement is easy, unless there is collusion. This question has been considered very deeply and in all its aspects. Government have at last come to the conclusion that, in regard to banking companies with a prescribed share capital as well as a reserve fund, the provision as regards deposit of kuri amounts in the Treasury need not be made compulsory. As to what exactly the share capital and reserve fund should be is a matter for investigation, and after proper enquiry, Government will declare that banking companies with such and such reserve fund and share capital will be exempted from making deposits. A difference has been kept in view between a private individual running a kuri and a banking company running a kuri. Nobody can have control over transactions that can be entered into by a private individual with money in his hands; but with regard to banking companies, their functions are entirely controlled by the Companies Act. A bank cannot go and purchase rice and commodities of such kind and trade in it. But a private individual can. A bank is not expected at all to enter into speculative transactions, but there is nobody to control

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the activities of a private individual. In the case of companies, there is a body of managing directors and then the shareholders who act more or less as a check upon them. In a company, if a managing director or anybody does any speculative business and thereby incurs loss, he will immediately be hauled up, and a repetition of this thing will not be possible in the case of banks. In the case of private individuals, it is very difficult for anybody to watch or verify a person's private fortune. Anybody can put up a decent show and make us believe that he is rich. In the case of banking companies, there are audited balance-sheets. The shareholders will be very careful to see that the management is sound, and if it is not so, they can check vagaries then and there. Therefore, in this view that has been adopted by Government, I certainly expect that much of the opposition that has been foreshadowed in some of the amendments tabled will disappear. Government have bestowed anxious thought upon this question, and it is a very responsive step that has been taken by Government. It is fully hoped that adequate co-operation will be forthcoming from all sides of this House in trying to exempt good banking companies from making deposits under this Bill. Good banks are an asset to the State.

Mr. C. R. Iyyunni *(Trichur-South):* May I know the section which will be applicable so far as the furnishing of securities is concerned?

Mr. M. Sivarama Menon *(Advocate-General):* I will give you copy of Government amendments.

Mr. President: The copies of Government amendments will be distributed during lunch time.

Mr. M. Sivarama Menon *(Advocate-General):* Government wanted to have a full idea of the non-official amendments tabled. These amendments were carefully studied. It is after considering all these amendments that a decision was taken. I would therefore request this Hon'ble House to consider this Bill in all its aspects and then co-operate with Government in trying to evolve a solution which will bring contentment to the people who want to join kuries and who want to invest their savings and contentment to the foremen by having a law under which Government can exercise a scrutiny over their activities and thereby infuse greater confidence in the general public. I expect that by infusing this sort of confidence they will attract a good number of subscribers without much advertisement. Better have few kuries which are well run than have a host of them which may end in disaster. If that principle is accepted, I should think that the principles of this Bill are beyond dispute quite acceptable to this House and in the interests

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of both parties. When we come to separate amendments, there will be occasion to discuss the various points in detail. I do not therefore wish to take more time of the House at this stage by dealing with one and all of them. I move that the Bill as reported upon by the Select Committee be taken up for consideration by this House.

Mr. C. R. Iyyunni *(Trichur-South):* Sir, now that Government intend to move amendments may we request that some time may be granted to us to study all the amendments in the light of the discussion here? There are various amendments tabled. We also want to study these amendments. I therefore suggest that this Bill may be taken up for consideration tomorrow morning. Otherwise, it will be difficult for us to understand fully the nature of the Government amendments. There are various complications and implications even with regard to the several amendments tabled by the non-official members. We would like to study them more closely and in detail, so that we may present our case also fully.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Is it possible to adopt the procedure in this case as in the case of the Agriculturists' Relief Act? If that is done, there are possibilities of a settlement as alleged by the Advocate-General. Is it not better therefore that a committee is constituted to discuss and come to a settlement regarding these amendments? I state this much, because Government have taken up a sympathetic view. Further, there are certain amendments brought forward by the non-official members which are very important also. It will be a healthy sign that some of the persons who have now tabled amendments should meet, discuss and decide and see whether some settlement is possible.

Mr. President: The Advocate-General deliberately took some time in explaining the general principles underlying the Bill as reported upon by the Select Committee so that at this stage there might be a general discussion on two or three of the fundamental principles upon which this Bill is based so as to clear up all the issues, and if possible, to minimise a duplication of this discussion when the various clauses come up. The picture that the Advocate-General has now given gives you an idea not merely of the main changes that have been made by the Select Committee but also of the attitude that Government propose to take up on one or two of the fundamental amendments that are going to be moved. So far as the various main points are concerned, Government consider that the amendments that they propose to table exempting certain banking concerns from the operation of the section compelling the foremen to deposit collections in the Treasuries, I consider that that is one of the most fundamental issues raised in this Bill. Government gave

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very careful consideration to the whole issue involved, and they finally came to the conclusion that the banks which satisfy certain tests must be really treated in a way different from private institutions and private individuals. So far as that point is concerned, I think, the way is more or less clear, and there is no more room for very much controversy or trouble. Now, the general discussion on the principles of this Bill will be resumed in the afternoon, and I would invite all the sections of this House to take advantage of this stage to have a thorough discussion on all the fundamental principles arising out of the Bill so that the attitude of the various sections of this House may be clear.

Mr. M. K. Devassy *(Adur):* I think there will be some difficulty because from the nature of the amendments it seems better that each amendment is discussed separately.

Mr. President: As a matter of fact, this is the procedure that is always followed in the Legislative Assembly at Delhi and all the Provincial Assemblies in India. After the report of the Select Committee is presented, the House has always got a full-dress debate on the general principles of the Bill as finally passed by the Select Committee. That always clears the way for a detailed consideration of the various clauses. In fact, I have always observed that one of the defects generally seen in this House is that hon'ble members do not take advantage of this stage to have a thorough discussion on the general principles. I wish hon'ble members to take this opportunity to have a full discussion.

Mr. C. R. Iyyunni *(Trichur-South):* We request that the amendments to be tabled by Government may be given to us before these things are discussed.

Mr. President: I would ask the hon'ble members to have a general discussion in the afternoon on the lines followed by the Advocate-General. So far as the actual intention of Government amendments is concerned, the Advocate-General's speech may be taken as an indication. The text of the amendments will be given to the hon'ble members during lunch time. In fact, they are ready now. As the Hon'ble Member Mr. Iyyunni said, it is permissible that the House should have some time to study these amendments. Therefore, what I propose is, after the general discussion in the afternoon, the detailed consideration of the clauses will be taken up tomorrow. If in the afternoon you finish the general discussion before 5 o'clock, I suggest that you may go on to the next item in the Agenda, *i.e.*, to refer to the Select Committee the Income-tax Bill. The actual discussion of the clauses of this Bill will be taken up tomorrow.

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All the amendments of which notice had been received by the office in time, *i.e.*, according to the Standing Orders, have been printed now. Some more amendments have been received after the notice time. I propose to disallow all of them. The Hon'ble Member Mr. Iyyunni has rightly stated that, in a very important measure of this kind, the House should have time to study all these amendments so that, if the amendments are simply to be rushed in at all the stages, it will not be possible to consider all these amendments. I want to make one exemption. That is with regard to Government amendments. These amendments could not be tabled in time, because Government had to wait until all non-official amendments were received. They wanted to study all those amendments. All Government amendments will be made available to the members at the lunch interval. No non-official amendments except those actually printed in this list will be considered by the Chair.

The House rose for lunch at 1-20 p.m. and re-assembled at 3 p.m. with M. R. Ry. K. Ayyappan Avl., Deputy President in the Chair.

Mr. V. K. Bhaskara Menon *(Cranganur):* Sir, I oppose this Bill, or rather I oppose this motion. Now the main argument advanced by the Hon'ble Advocate-General when he was submitting to this House the various points considered by the Select Committee is that this Bill is intended to correct many of the defects in the existing working of the kuri system. My submission to this House is that any correction of an ordinary, ancient, indigenous system is really necessary; but correction in a way which will kill the thing altogether is absolutely unknown to commonsense. To me it seems absolutely impossible for any kuri to be conducted unless it be that they are conducted by persons who have got enormous resources. Really speaking, kuries which originally started in Malabar to help persons in trouble will, in future, assume the form of institutions meant to increase the wealth of ordinary wealthy institutions or people. My submission to this House is that the Act which has already been in force in our State has done a lot to correct the various defects of the system. Thereby I am prepared to concede that there would be certain sections which will have to be recast in the sense that there is no provision to wind up under the old Act. Such a provision is actually necessary. Further, provisions will have to be introduced to see that the prized subscriber is not delayed too long in the matter of getting his money. These things are really necessary, and my submission to this House is that to secure these objects certain sections of the existing Act may be amended, instead of redrafting the Kuri Bill in such a way that it

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ceases to have any bearing whatever upon the law which has been in force in this State. In this connection, I think I will be justified in contending that it is exceedingly disadvantageous for any State, if a system or a custom which has been in existence and continuing for a long time is suddenly set at naught or is completely sought to be revolutionised. The result, as stated by me now, is to unsettle the financial position of almost all the institutions which have been conducting kuries for the last so many years—from 1107 onwards when the Kuries Act which is now in force was first made into law in our State. It was very effectively put before this House that the public will be watching what exactly is the attitude of this House which had the temerity to pass the Agriculturists' Debt Relief Bill. It is really funny that such a threat is levelled against the members of this House. After all, is the Government to pass the Bill by threats or by appealing to reason? I can very well appreciate the arguments of the learned Advocate-General—but because the public will be watching, we are warned that we have got to do certain things which ought to be in line with other legislations got passed into law before, that seems to be a funny argument. My submission to this House is, in the matter of this kuri legislation, because kuries are multitudinous in numbers and are being carried on by so many institutions, there should be some settled notions both in foremen as well as subscribers. It will be absolutely unfair and unwise for the economic system of the State to unsettle the whole thing by causing revolutionary changes that are now sought to be made by the Advocate-General. I, therefore, appeal to this House to see that this Bill is thrown out and should not be allowed to become law as is now drawn up.

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I wish to make one general remark. With regard to the retrospective operation, the learned Advocate-General had been explaining and justifying the position taken up by the Government. He was referring to principles of jurisprudence. He was also referring to the Agriculturists' Relief Act in justifying the attitude adopted by Government in regard to this Bill. Let us examine the position. The position now is this. The kuri was started some time before. At that time there was no Act and there was no provision as regards security. Now the foreman is asked to furnish security in respect of tickets drawn, other than the *kainarak*. By passing a law now, why should we penalise a person for an act done by him before? Suppose I borrowed some money from you on a pronote some years ago and now you ask me for security. I say I am unable to furnish security. Can you prosecute me for that? But here you say if the starter does not furnish security you will prosecute him or fine him.

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Mr. M. Sivarama Menon *(Advocate-General):* That is only where he conducts the drawing without furnishing the security.

Mr. A. V. Moothedan *(Chalakkudi):* Even an honest man who was conducting the kuri properly will, under the new section, have to pay fine.

Mr. M. Sivarama Menon *(Advocate-General):* If he is not in a position to pay fine, the kuri will have to be wound up.

Mr. A. V. Moothedan *(Chalakkudi):* There is no justification at all for compelling a man to furnish security or otherwise threat him with prosecution.

Then there is some conflict in clause 12 which says, if a foreman fails to furnish security he will be prosecuted. There is another provision in the Bill, clause 31, under which if the foreman fails to furnish the security the kuri shall be deemed to have terminated. If kuries are deemed to be terminated by the Act, then why should the foreman be prosecuted? A kuri will be terminated by failure to furnish security.

Mr. P. Govinda Menon *(Mulakunnathukavu):* Not for the failure to furnish security, but for conducting a drawing afterwards.

Mr. A. V. Moothedan *(Chalakkudi):* When the kuri is legally terminated then there will be no kuri and there can be no drawing. Then why should you penalise him?

Mr. M. Sivarama Menon *(Advocate-General):* May I request the hon'ble member to point the relevant section on which his argument is based?

Mr. A. V. Moothedan *(Chalakkudi):* On page 10 you have laid down,"in the case of kuries started on or after 1st Kumbham 1115 and whether the first drawing of any such kuri has been conducted.....the foreman shall furnish security as specified in sub-section 1."

Mr. M. Sivarama Menon *(Advocate-General):* It means in cases where he conducts the drawing after the period mentioned in sub-section 2 without furnishing the security specified therein, *i.e.*, sub-clause (3) (*ii*). Failure to furnish security alone is not punishable.

Mr. A. V. Moothedan *(Chalakkudi):* When by the failure to furnish security the kuri terminates according to clause 31, why should the foreman be asked to remit fine? If the kuri is terminated there will be no kuri existing.

Mr. P. Govinda Menon *(Mulakunnathukavu):* For pretending that the kuri exists, and then asking the subscribers to pay in their subscriptions.

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Mr. A. V. Moothedan *(Chalakkudi):* That is not the section before us. The section before us now is section 31. According to that, by the very act of the foreman failing to furnish security, the kuri is automatically terminated.

Deputy President : Though legally terminated, he may pretend that the kuri has not terminated and collect the amounts.

Mr. A. V. Moothedan *(Chalakkudi):* Then it is a case of criminal breach of trust, misappropriation or cheating. There is a criminal provision to deal with it in our penal law. Anybody can be prosecuted for that. Why should he be fined here also under this Act a second time. I do not wish to add anything more at this stage.

Mr. P. Govinda Menon *(Mulakunnathukavu):* Mr. President Sir, I have very great pleasure to support the motion moved by the learned Advocate-General. I am sure that by placing a measure of this kind on the Statute Book of Cochin the Advocate-General will earn for Cochin the same name which the Law Member for India earned by placing the Insurance Act on the Statute Book of India. The kuries in our country have become so numerous, the persons interested in the transaction are so innumerable and the interests involved are so varied that it is high time that Government interfered on the scene and brought to bear some sort of control on the transaction of the kuri. The Government realised this position 9 years back when the Kuries Act was enacted in our State. Finding that the Kuries Act enacted in 1107 was not sufficient to meet the situation, later a Proclamation was also issued regulating to some extent the conduct of kuries in our State. It is my humble submission to this House that neither the old Kuries Act nor the Proclamation issued by His Highness is sufficient to realise the objects which the Government had in view, *viz.*, to protect the interests of the subscribers to kuries. My friend Mr. V. K. Bhaskara Menon was saying that kuries being a sort of indigenous growth, it may not be proper to pass an enactment of this nature which will change the character of kuries which were developed indigenously in our country. But I doubt very much whether for the last 10 or 15 years the kuries conducted in our country were conforming to the old traditions and the old practices under which the kuries were being conducted by our countrymen in ancient times. For example, it has been recorded by the Committee appointed by our Government in 1106 or 1107 that in the Mukundapuram and Trichur taluks a very hard practice existed whereby the rights of unprized subscribers were auctioned away by the starters without even giving notice to the subscribers concerned. Cases have come to my

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knowledge where the rights of subscribers who have subscribed to the extent of Rs. 500 and 600 were auctioned by starters for 1 or 2 rupees and in several cases for even a few annas, because they became defaulters. I have in my own short practice in the bar come across several cases where non-prized subscribers, having subscribed into kuries to the extent of Rs. 200 and Rs. 300, had to face a situation in which their rights in the kuri were sold away for 8 and 10 annas.

Mr. A. V. Moothedan *(Chalakkudi):* Before the Kuries Act?

Mr. P. Govinda Menon *(Mulakunnathukavu):* Yes. That was before the Kuries Act.

Mr. A. B. Salem *(Mattancheri):* By whom?

Mr. P. Govinda Menon *(Mulakunnathukavu):* By the starters of the kuries and for the simple reason that the subscribers did not subscribe to the kuri regularly, as laid down in the *kaipada.* The rights were auctioned away and purchased in many cases by the starters themselves for 8 annas or 10 annas—rights which have face of values Rs. 300, Rs 400 and Rs. 500. The result was at the termination of the kuri, in olden times, these people were getting, instead of Rs. 300, Rs. 400 or Rs. 500 that they have subscribed, only 8 annas or 10 annas. In the absence of the Royal Proclamation and the Act, the starters had very well a right to do so and they were within the strict bounds of law in doing so. Therefore, these transactions were upheld by the courts concerned.

Dr. A. R. Menon *(Minister for Rural Development):* Were those auctions conducted publicly?

Mr. P. Govinda Menon *(Mulakunnathukavu):* Presumably so. But in many cases, it will not be so. The records will, however, show that it was publicly conducted. Now, unless the Royal Proclamation had stepped in and prohibited the rights of non-prized subscribers from being auctioned, the practice would have continued to the great detriment of the poor subscribers of the kuri. That itself demonstrated to my mind that some sort of regulation and control over the starters was necessary in order to safeguard the interests of subscribers. But for the economic depression which beset in 1105, 1106 and 1107, probably those subscribers would have continued to subscribe in the kuri according to the terms of the original contract contained in the *vaimpu.* But, on account of the unforeseen circumstances, these people were unable to subscribe to the kuries and to win their tickets in the proper time, the result being that their rights in the kuri were auctioned away. That is one instance which will go to show that the kuries for the last 10 or 12

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years began to be conducted in a way and in a manner which is quite different from that in which they were conducted in ancient times in our country.

Now, in the case of a running kuri, there are 3 sorts of persons to be considered. The rights and obligations of these 3 types of persons have to be considered. These are, the starter, the non-prized subscriber and the prized subscriber. The working of the kuries before the Kuries Act, and the law as amended by the Kuries Act show that of these 3 types of persons, non-prized subscriber was the person who was hit the most. The non-prized subscriber in a kuri which is running is a man with obligations but with no rights whatsoever. He has to subscribe to the kuri in the prescribed time, get his *kaipada* endorsed by the starter and has to wait till that lucky instalment on which he draws his ticket, and after that he has to wait before the starter to satisfy him as to his security. In many cases he may not have proper securities. In many cases his proper security may not be proper security in the eyes of the starter. Therefore, till the moment he draws his prize amount he is a man absolutely without any protection. If he makes a default he will have to wait till the natural termination of the kuri before he gets even the actual subscriptions, the actual amounts in cash which he has contributed to the kuri. It may be, that it is at the 10th instalment that the subscriber has defaulted to contribute to the kuri. If the kuri has 30 instalments, even if the subscriber becomes a defaulter on the 11th instalment, yet, according to the present law, the defaulter subscriber will have to wait till the 30th instalment is over before he can claim the amount. It may be, according to the strict letter of the law; this may be good law. But in many cases the consequence will be very serious so far as the non-prized subscriber is concerned, because he will have to wait in several cases for several years, till the natural termination of the kuri, and he will have to see with his eyes the starter squandering away the kuri funds selling away his securities or the starter turning a pauper. He will have to wait without being able to do anything to realise his amount. That is why I say that the non-prized subscriber is a person without any rights but only with obligations. But so far as the prized subscriber is concerned, as soon as he prizes the ticket, furnishes the security and draws the amount, he becomes a member of that class of lucky persons in our State called the debtor. All the benefits of the Debt Relief Regulations in our State become available to him. Therefore, to a very great extent he is in a very advantageous position. He gets relief under the Agriculturists' Relief Act. He gets relief under the Royal Proclamation. He gets many other reliefs to the great detriment of the starter. That is the position of the prized subscriber.

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And so far as the starter is concerned, he has all obligations towards the prized subscriber and no obligation to the non-prized subscriber. He has simply to sit at the counter waiting for the subscribers and even if no subscriber turns up on a certain instalment to pay any amount to the kuri, if the starter says he has been sitting at his counter on the due instalment to get the subscriptions, but nobody turned up and that he was not himself a defaulter, because he was ready and willing to perform his part of the contract, then, in such cases the kuri is running in the eye of law but in the eye of common sense the kuri has terminated or has become defunct. But the poor defaulter subscriber has to wait till the natural termination of the kuri before he could claim his ticket. That is the difficult position in which the subscribers to the kuri were being placed. According to me, the most important provision of this enactment is Chapter IX dealing with the winding up of kuries. In a transaction in which there is a starter and several subscribers to be reckoned with, if the kuri has become rotten and if it is apparent to the court that the kuri cannot be conducted by the starter properly, it is highly reasonable that the subscribers should be given the right to move the court to compel the winding up of the kuri. There is no reason why the starter should pretend that the kuri is still running to the detriment of the subscribers concerned. Therefore, even if no other section of this enactment became law, by Chapter IX alone becoming law, great relief will flow to the subscribers to the kuries in our State. In that connection I have to tell this House that according to the present enactment, Chapter IX regarding the winding up of kuries is made applicable only to kuries which were started after the Act of 1107. I see no reason why it should not be made applicable to kuries conducted before that date also, because the winding up provisions of this Chapter do not entrench upon the vested interests of any persons. What are the provisions of that Chapter? Chapter IX simply says, a kuri may be wound up by the District Court if the kuri has terminated under section so and so. The Act says that in certain eventualities the law has to consider that the kuri is terminated even though the starter does not say it is terminated. In such cases there is no reason why the kuri should not be wound up if it is proved to the satisfaction of the court that the foreman is unable to pay the amount to the subscribers. I put it to this House, what difference it can make whether the kuri is started before 1107 or after? If the starter cannot pay the amount to the subscribers, if he cannot conduct the kuri properly and if the subscribers stand to lose their amounts, I submit that in such cases, in the case of kuries started before 1107 also the subscribers concerned should be given the right to move the court to get the kuries wound up.

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Now when a kuri is started by the starter, he does not start it with the hope or with the expectation that he will be able to mismanage the monies of the subscribers. Therefore, in no way does it entrench upon the rights of starters who started kuries before the passing of the Kuries Act in 1107. Suppose in the Insolvency Act it is stated that the provisions of that Act may be availed of only by persons who are born after the enactment of that Act, what is the meaning of that provision? If a man cannot pay his debts whether he be born before the Act or after the Act, he should be dragged to the Insolvency court and a rateable or equitable distribution of his assets should be made so that it may be available to the creditors concerned. I submit before the House that absolutely nothing is gained, and everything is lost by making the provisions of Chapter IX not applicable to old kuries. And several of the kuries as seen from the dissenting notes by Mr. Iyyunni are started before 1107. Personal experience of many of the members here will tell them that many of these kuries are in a rotten condition and in the interests of the subscribers to these kuries and in many cases in the interests of the starters themselves, the winding up provisions of this enactment should be made available to the subscribers of kuries started before 1107 also.

Then, with respect to the general control sought to be placed upon the starters by this Act, my opinion is that many of those provisions are very very rigid. I do not think that such rigid provisions are necessary. Take, for example, the case of Banking companies. I find from the amendments tabled by the learned Advocate-General that he means to invest Government with power to exempt certain banking concerns. I think it is an amendment in the right direction. Now, under the amendment to the Indian Companies Act passed in 1936, under section 277 (K) of that Act, banking companies registered under the Indian Companies Act, can transact certain kinds of business only. They cannot transact all kinds of business. It is doubtful whether conducting of kuries will fall under the several types of business contemplated by section 277 (K) of the Indian Companies Act. But, by a Proclamation passed in Cochin State, conducting of kuries has been made one of the legitimate items of business which a banking company in the State can conduct. If that could be conceded in 1936 or 1937, I see no reason why banking companies should not be allowed to conduct kuries untrammelled by the rigorous provisions of this Act now. The conduct of kuries is one kind of banking business. Several sort of chit funds and other transactions are being conducted by other banking companies not only in our State but also outside. The present Act will not in any way apply to those transactions. I see

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no reason why the banking companies in our State should not have the advantage and benefit of conducting kuries untrammelled by the rigorous features of this Act. Therefore, I welcome the amendment moved by the Advocate-General under which certain banking companies are sought to be exempted from the provisions of this Act. But before considering that amendment I wish to point out one sequel or one consequence which will follow as a result of that amendment. If the House can without objection compromise with those consequences, I should think that all the evil effects of this Act can thereby be ignored. The result of that amendment will be that kuries in future will be the monopoly of the exempted banking companies in our State. Personally, I do not think it is an undesirable consequence. But, if the members of this House are not satisfied with that consequence, I wish to point out that that consequence is there. It may escape our attention and it is necessary that we should rivet our attention on this point also. By exempting the banking companies from the rigours of this Act they will have the liberty to start new kuries, and with respect to the rebate of interest which starters will get from these kuries they will get some advantage over the other starters. In the case of churches, in the case of devaswams and in the case of individuals, the collections will have to be deposited in the Treasury and the Treasury will give 1½ per cent interest on the daily balances. The starter is expected to give a rebate of interest only to the extent of 1½ per cent. In future, in the case of starters who are not banking companies, subscribers will get a rebate of interest only to the extent of 1½ per cent. At present they are getting 3, 5 or even 6 per cent in rare cases. Hereafter, they may not get it. But, on account of the favourable position in which starters who are banking companies are placed by the amendment, these companies will be in a position to give better and more attractive rates of interest by way of rebate to their subscribers. So that not only is greater facility afforded to banking companies to start new kuries, but the subscribers will also have greater attraction to join kuries started by the banking companies. That will be the result of the amendment.

With respect to the deposit of the collections in the Treasury itself, I think, there is a great point in the amendments moved by some of my hon'ble friends that an alternative option should be given to the starters to deposit the collections in approved banks. So far as the Cochin-Kanayannur and the Trichur Treasuries are concerned, depositing in them is equal to depositing in limited banks because these two Treasuries are in the hands of one limited bank working in our State.

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Rama Varmha Tampuran *(Comptroller of Finance and Accounts):* No.

Mr. P. Govinda Menon *(Mulakunnathukavu):* It may not strictly amount to that in view of the explanations made by the Comptroller and the Diwan when the matter came up for discussion; but that is the essence and that it is what it comes to. It is in a way an approved bank. If that is so, I see no reason why some other local and thriving banks may not also be approved in order to work or function for the purposes of this Act.

Deputy President: Who will be responsible for the money invested in the Treasury?

Mr. P. Govinda Menon *(Mulakunnathukavu):* The State will be responsible.

Deputy President: Then it is not like investing in banks.

Mr. P. Govinda Menon *(Mulakunnathukavu):* There is some difference. But it is not all the difference. Now, if there are affluent and well-conducted banks which can receive large amounts as deposits from the subjects of our State, I see no reason why these banks should not receive deposits from the Kuri starters concerned. For complying with the provisions of the Indian Companies Act in the matter of the deposit of reserve funds, several banking companies have been approved by the Government. Under the amended Companies Act of 1936, the reserve fund has to be deposited in certain prescribed ways, and one of these is the depositing of amounts in an approved bank. There is no reason why these approved or scheduled banks may not be approved for the purpose of this Act. My point is, in the case of the Indian Companies Act where in order to safeguard the interest of depositors in these banking companies, they are required by law to invest their reserve fund in scheduled banks, I see no reason why in the case of these kuries also certain banks may not be approved in which the starters may deposit the amounts concerned, unless the arguments be that there are not enough solvent banks in our State in which such deposits may be made. When I say approved banks, it is within the discretion of Government. Government will look into all the surrounding circumstances and before selecting a particular bank as an approved bank they will take into consideration all the circumstances and weigh the pros and cons of the matter. Depositing the amounts in the Treasury is a very laborious and difficult process so far as starters are concerned, and I think there is much in the argument that by passing this enactment it will practically be stifling the kuries that are being conducted in our State by starters other than banking companies. If that is a consummation to be wished for, then this Bill is

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the Bill which will bring about that consummation. It is a matter on which much can be said on both sides because the unsatisfactory condition in which many of the kuries are conducted in the State will go to show that some strong hand is necessary in order to mend them. This is all I have to say by way of remarks at the time of the consideration of the Bill. There are certain other points which do not require to be said at this juncture. I have sent several amendments and I have to speak about them at the proper time.

*Mr. A. L. Antony *(Irinjalakkuda)*: Sir, the hon'ble member for Mulakunnathukavu in his speech said that a check was necessary in spite of the Act of 1107. When actual statistics are taken, I find from the official reports that there were 2,000 and odd kuries before the enactment of 1107. But, after the enactment, newly registered kuries during the last ten years come to only about 300 and odd and the total to only 656. When we know as a matter of fact that only 656 kuries are now running in the Cochin State whereas prior to 1107 there were about 2,000 and odd kuries, how could we say that there was not a proper check on the kuries after the passing of the Act of 1107? The number of new kuries registered after the enactment was only 300. Out of this, 200 and odd were running before 1107. It is not a case where there have been such a large number of kuries or where there have been such a large number of subscribers. I really cannot understand the position taken up by the hon'ble member. Perhaps he has not gone through the reports and compared the statistics of kuries started before the enactment of 1107 and after that. Even granting that there are a large number of kuries I could not really understand why he kept on arguing at length about the auctioning affair. That has already been stopped in 1107, and if there was defect in that, we could only legislate for that. We have already legislated for that, and there was no one in this House who opposed such legislation. In the circumstances, what was the earthly use of dilating much on that point, I could not really understand. On a matter which was conceded by all, I do not think there was any necessity to argue at length by the hon'ble member.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur)*: It was an argument for the latter part of his speech.

Mr. A. L. Antony *(Irinjalakkuda)*: That is a method of argument familiar in the law courts. But coming to the actual position, we find that it is admitted by the Committee that this is

* Speech not corrected by the hon'ble member

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an institution which was running regularly from very ancient times. It is a big institution and large sums of money are coming in from outside the State. There is much outflow and inflow of money. Now, keeping in mind the provisions incorporated in the Bill, let any hon'ble member examine in his own conscience whether any institution or any individual can conduct these kuries with the alleged sympathetic provisions which the committee have stipulated, with the restricted commission without taking into account the various expenses consequent upon the conduct of a Kuri. My hon'ble friend himself knows that there are very many defaulters who have drawn the prize amounts. He himself might have filed very many suits for the collection of defaulted subscriptions. When that is the real position and the foreman is in difficulties even now, here is a legislation asking the foreman to finance from his own pocket and invest the amount in the bank. I ask, will there be any man to come forward to start a kuri, under such conditions? As far as my experience goes no one with these provisions in the Act will even hereafter try to start any kuri at all. With the prospect of getting Rs. 50 a year after some 11 years and that too after meeting the office and other expenses from his own pocket for the time being, nobody will venture to run a risk of advancing from his own pocket an amount to the extent of 66 per cent of the subscriptions. In the report itself it is said that the actual realisation of the subscriptions comes to only 33·6 per cent. Where is the balance to come from? How is the foreman to give the prize amount in full to the winner? All the people do not subscribe regularly. So, for every drawing, the foreman has to take from his own pocket huge amounts of money every year. Even big banks will not be able to run kuries with such restrictions. This will be smothering away an institution which they say is a necessary thing. Whether it is going to run or not, what I have to bring to the notice of the House is that it is better to finish away all the kuries that now exist. There is already the provision that the foreman cannot appropriate any money out of the kuri amounts. So long as there is that provision why should there be a greater obligation upon him to invest the kuri amount in the Treasury?

With regard to the provision of retrospective effect the Advocate-General was saying that it is not really retrospective effect. That position can be explained when the amendments are moved.

Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* It takes effect only from the date of the Act *(Laughter)*.

Mr. A. L. Antony *(Irinjalakkuda):* With regard to the defaulted tickets also the foreman is compelled to furnish security.

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This is a provision which compels him to deposit the future subscriptions in respect of the defaulted ticket which is not actually received by him. The security has to be furnished not only with regard to the amount which is to be paid to the defaulted subscriber, but with regard to future subscriptions also. I really do not understand this matter which is for the first time brought out by the Advocate-General. Even if it is conceded that security is to be given, it is necessary only when all the other subscribers are regularly subscribing. There may be other defaulted people who are not entitled to get the entire amount. In such a case what is the necessity for the foremen to furnish security for the entire amount which has to be subscribed by that prize winner ? It is simply a case where more rigour is sought to be imposed by Government in order that the foremen might be more taxed. With regard to the other points, I may reserve my arguments when the amendments come up for discussion.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri)*: Sir, I wish to make certain observations regarding the necessity for the present enactment; what should be the application of the present Act with reference to kuries which are started prior to 1107 and also to those kuries which are started subsequent to 1107 is one vital matter that this legislation seeks to bring. Regarding the necessity for making certain changes with reference to the old Act, I do not think there is any dispute as it is agreed that there are certain matters in which some strong control is necessary in order to guard against possible losses which the subscribers may suffer in course of time especially in times when the whole economic structure is sought to be galvanised. That there is some necessity to effect greater control over the working of the kuri institutions is certainly conceded. Now what are the grounds which have given rise to this Act? So far as the starting of kuries are concerned, I do not think that even the Committee has discouraged it. The Committee has said that it is an institution which has served its purpose to a great extent in order to improve the economic conditions of the Cochin State. It has also served the persons who want to make investments and those who want to borrow mostly. Now, so far as the objects of the kuri are concerned, there is no doubt. In the absence of any enactment for the conduct of the kuries, certain legislation was passed in 1107 and it served a useful purpose as a sort of check for the conduct of kuries. Since that legislation, I cannot but submit that it has exercised a great influence over the conduct of kuries. It has also served a very good purpose in order to secure the interests of non-prized subscribers as also the prized subscribers who were unable to pay future subscriptions. My friend Mr. Govinda Menon was exaggerating the case of auction of certain tickets for small amounts.

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Probably he might have come across a case, but such rare cases should not be used as a strong argument for condemning certain kuries. Occasionally, we find valuable immoveable properties are sold for very low prices. That is not an uncommon thing. In all cases, it is not possible to guard against possible losses. That is not the view from which we should see whether a necessity has been made out. But I shall state some other cases where some sort of improvement upon the old legislation was necessary. There are certain cases where unpaid subscribers make default in the payment of kuri instalments for three or four or a dozen instalments. I find in some cases that such people are not removed from the roll of subscribers on account of their having committed default under the *Kuri Vaimpu*. But, as soon as that particular number is won, we sometimes find the foreman stepping in. Such cases are also not uncommon. That is very hard. They could very well remove his name as a defaulter and substitute their names instead. But keeping on his name in the rolls without removing him as a defaulter he is trying to see whether he will come and pay all *Vattam*, interest, etc. But when his ticketi's drawn and thereby he gets the benefit, then at once he is treated as a defaulter. Such cases have also come to the notice of many of us. No doubt, that is a practice which certainly ought to be abolished and we find that more stringent provisions are introduced in the present enactment in order to end such unfair treatment of certain defaulters. This is, of course, a necessary deviation which has to be made and which the present enactment has achieved.

There may be cases where the subscribers who have won the ticket and who have also given the necessary security, may have defaulted many instalments, so that the foreman might be put to very great difficulties to pay the tickets won subsequently. In such cases where, on account of the economic depression, the subscribers were not able to pay their subscriptions regularly, some Proclamation was issued whereby it was ordered that if at least the defaulted instalments were paid, that would give them some relief. In that way some relief has been given to the subscribers who have already won the ticket. The question now is whether any corresponding benefit has been given to the foreman. No benefit has been given. But, on the other hand we find that the position of the foreman has been made rather hot and that very stringent provisions have been introduced to hit the foreman to a very great extent. The question is whether in the light of the fact that such an institution ought to be maintained in the interests of all concerned, it is desirable or imperative or whether any necessity has been made out

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to introduce such hard and stringent provisions with regard to the foreman.

The important changes that are now sought to be made by this enactment regarding the foreman are three in number. Firstly, he should deposit all the Kuri amounts as and when they are realised within one week from the date on which the amount is paid and he has also been asked to deposit 50 per cent of the amount even if the amounts are not realised.

Mr. M. Sivarama Menon *(Advocate-General):* What about the present law? Should they not deposit 50 per cent or the whole amount?

Mr. A. V. Moothedan *(Chalakkudi):* That is not enforced.

Mr. M. Sivarama Menon *(Advocate-General):* I said that is the law.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* My objection is only to the mode of investment, that is now sought to be introduced by this legislation from what it was under the old Act. It is not with regard to the principle. These amounts are now wanted to be deposited in the Treasury. Of course, similarly consolidated amounts realised on account of future subscriptions of defaulted prize winners are also to be deposited. There is another provision in clause 22 which says that starters who have themselves substituted in the place of defaulters and who have won such tickets are now bound by this Act to deposit all the future instalments likewise in the bank. These are the main provisions which hit the foreman to a very great extent.

Now, regarding investments, I have no quarrel. My only objection is regarding the mode of investment or the place where these investments are to be made. Under the old Act, it was only necessary that it would be deposited in some banks. We find now a departure which is very rigorous and from the stand-point of many of the kuri starters seems to be practically impossible. I am very glad to find that in response to the various amendments sent by the non-official members, so far clauses 14 and 24 are concerned, exempting some of the institutions or some of the kuries from the operation of these clauses, certainly the Government have very sympathetically considered such amendments and have come in line with the amendments proposed. That is certainly a spirit of co-operation which the Government have shown and they have to be congratulated on taking up such an accommodating attitude in a matter which has given rise to very great complaints from quarters affected by this legislation.

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The main principle which has crept into this legislation is the retrospective operation of some of the important provisions of the Act. These are clauses 12, 14 and 22. Regarding clause 12 (2), it was submitted by the learned Advocate-General that the retrospective operation of this clause was necessitated because many of the foremen have started kuries since the 15th day of Kumbham knowing that some legislation was being thought of by Government. It is rather too much to say that these people started the kuries merely to get out of this legislation. Many of the banks especially in Trichur are starting kuries every year or even every 6 months, so that it cannot be said that these people started the kuries after 17th Kumbham with the deliberate object of keeping out of this legislation, and the fact that that induced the Government to give retrospective operation to such kuries cannot be justified. Transactions which have already been settled should as far as possible be allowed to remain undisturbed. That principle should be borne in mind when retrospective effect is given. I do not know whether the Advocate-General was referring to any particular kuri or any number of kuries which have been started since the 15th Kumbham which may have probably given rise to a suspicion that it was deliberately started.

Mr. M. Sivarama Menon *(Advocate-General):* There are only about 28 such kuries.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Have you gone into the figures of any other period? My submission is that it is not possible to say that these kuries were started since the 15th Kumbham with this deliberate object. Why should they start a kuri and then claim exemption from legislation? On the other hand they would certainly be afraid that they might be caught by the enactment by giving retrospective effect. So that the ground upon which the learned Advocate-General wanted to give retrospective operation to kuries started since that date cannot legally stand. So far as clause 22 is concerned, the Advocate-General did not say the specific ground on which retrospective operation to that clause was conferred. Under clause 22, the foremen who have already taken tickets other than the *Kainarak* and who have also drawn the amounts should give security for the payment of future subscriptions that fall due after the enactment. It is that liability which has been given retrospective effect by the Bill. With regard to this it cannot be said that that liability was incurred on a particular date. On the other hand, some of these tickets have been won by the starters earlier than this period even before the Government thought of making

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any legislation. They might also have invested them in appropriate securities in a settled manner in order to ensure future payments. The learned Advocate-General was arguing that we have to take the life of a kuri as a whole and that since a portion of its life comes afterwards, we have to take the whole period into consideration and in that way retrospective effect should be given. Unless he views the whole thing on the principle of trust, it is not possible to justify the position taken up by the Advocate-General. These future liabilities are consequent upon the drawing of certain tickets which, by law, they were entitled to draw without any obstacle. Now, if they were perfectly justified in drawing certain tickets themselves and appropriating the amounts and agreeing to pay future liabilities, the liability to pay future subscriptions cannot be treated as independent of their own acts. If the action of the foremen to take substituted tickets and to draw the amounts of such tickets could be justified and cannot be touched on this principle, my submission is that the mere fact that some future instalments are also to be paid by them cannot be a proper justification to give retrospective operation contemplated by clause 22. My friend was saying that the liability has to be discharged by putting the amount in some bank, and keeping it ear-marked. All that is good. But the question is whether from a practical stand-point it would be possible for institutions who conduct a number of kuries to do so. It is quite possible that they might have taken a large number of tickets. The amounts also must have been invested in some way or other. To give security for all the future subscriptions in respect of such *Naraks* will certainly be very hard and it will be very difficult from a practical stand-point.

Mr. M. Sivarama Menon *(Advocate-General):* Without interruption, even mortgage deeds will be taken as security. We do not want all the money to be deposited in cash.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* These mortgage securities may not be ear-marked for this purpose alone. These banks may have other transactions. They might have invested amounts on other transactions and these investments may be partly amounts drawn from these kuries. It is not possible to ear-mark any particular security or investment as being the corresponding amount on account of the drawing of a particular kuri. Probably the general security may also be sufficient to warrant the inference that they are in a position to discharge the future obligations. Therefore, to say that they must all on a sudden either pay in cash or ear-mark particular securities for this purpose may be very difficult. On the other hand, they may have securities

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or other investments which may take in amounts including this amount also. What I submit is, from a practical standpoint, it may not be very easy to furnish such security. Therefore, it would be highly desirable that some sort of a *via media* should be found out especially to give relief to such institutions which are conducting a number of kuries and whose financial position has not yet been doubted. I am speaking with reference to certain banks with which I am familiar, who have established a reputation for the proper conduct of kuries and who have attracted persons not only within Cochin but from outside Cochin. I know, several persons from F. M. S. make it a habit to take tickets in very many kuries in these banks. If these people had misbehaved and the people had had bitter experience, they would not have again co-operated with them. But, on the other hand, we find there are people who are permanent subscribers to various kuries conducted by such institutions. In the light of the fact that these institutions should not be unduly stifled and that it should be made to serve the interests of all parties concerned and to secure the subscriptions of unbid subscribers, it is desirable that some sort of remedial measures should be introduced.

Dr. A. R. Menon *(Minister for Rural Development):* What are the remedial measures that you suggest?

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* I cannot suggest them all on a sudden. Government have themselves made a suggestion with regard to investments. In the Bill, as it was published, the provision was that the amounts should be deposited in the Treasury. Government were able to appreciate the hardship involved and they were responsive enough to find out a solution and satisfy the requirements of the foremen. In some such way all of us sitting together may be able to find out some solution by which certain institutions may be exempted from the operation of some of these clauses. As in the case of clause 14, in the case of clause 22 also some exemption may be made in the case of certain institutions.

So far as Chapter IX is concerned, as Mr. Govinda Menon put it, I do not know why that Chapter was sought to be made not applicable to kuries which have been started prior to 1107.

Mr. M. Sivarama Menon *(Advocate-General):* Government have no objection to accept the proposition. The Select Committee thought that there may not be any such kuries. That is all.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* There are such Kuries.

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Mr. M. Sivarama Menon *(Advocate-General):* Upon that information we have no objection to make Chapter IX applicable to all kuries.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* Government have responded to a very great extent to some of the important changes proposed by the various amendments and I am sure those who have put in other amendments will also show a sort of adjustment and see whether an amicable settlement could not be effected with regard to those amendments also. It is a very important legislation and Government have very rightly appreciated the significance of some of the amendments. We are also ready to co-operate with the Government, provided they show some spirit of accommodation in respect of some other sections also.

* മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: സർ, ക ക ൦ ൪-ലാണ് കുറികളെ സംബന്ധിച്ച് ഏതാണ്ട് ഒരു നിയന്ത്രണം ആവശ്യമാണെന്ന് ചില അനുഭാഗസ്ഥസാമാജികന്മാക്ക് തോന്നിയതു്. അതിന്റെ ഫലമായിട്ടാണ് ക ക ൦ ൭-ൽ ഒരു നിയമം ഇവിടെ പാസാക്കിയതു്. അന്നു് കുറിയെ സംബന്ധിച്ച് ഒരു നിയന്ത്രണം ആവശ്യമാണൊ അല്ലയൊ എന്നുള്ളതിനെപ്പറ്റി വാദപ്രതിവാദം നടത്തുകയുണ്ടായി. അക്കാലത്തു് ഈ രാജ്യത്തു് അനവധി കുറികളും നടപ്പിലുണ്ടായിരുന്നു. എന്നാൽ ആ റഗുലേഷൻ നടപ്പിൽ വന്നതിനുശേഷം കുറികൾ വളരെ ചുരുങ്ങിയിട്ടുണ്ടെന്നുള്ളതു് കണക്കുകൊണ്ടു മനസ്സിലാകുന്നുണ്ടു്.

മിസ്റ്റർ വി. കെ. കൃഷ്ണൻകുട്ടി: അതു് കുറി ആക്ടിന്റെ ഫലമായിട്ടാണെന്നു പറയാമോ?

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: അങ്ങിനെ ഞാൻ പറയുന്നില്ല. ക ക ൦ ൭-ൽ രണ്ടായിരത്തിൽ ചിലചാനം കുറികൾ ഉണ്ടായിരുന്നതു് ഈ കഴിഞ്ഞ ഒമ്പതു് കൊല്ലക്കാലത്തിനിടയിൽ ൩൦൦-ൽ ചിലചാനമായി കുറഞ്ഞിട്ടുണ്ടു്. ഈ മുന്നൂറിൽ ചിലചാനം കുറികളെ നിയന്ത്രിക്കുവാൻ വേണ്ടിയായിരിക്കണം ഇപ്പോൾ കൊണ്ടുവരപ്പെട്ടിട്ടുള്ള ഈ നിയമം എന്നാണു് ഞാൻ വിചാരിക്കുന്നതു്. ക ക ൦ ൭-ന മുമ്പിൽ തുടങ്ങി നടത്തിവന്നിട്ടുള്ള കുറികളിൽ ൨൦൦-ൽ ചിലചാനം ഇപ്പോഴും അവസാനിക്കാതെ നിൽക്കുന്നുണ്ടു്.

മിസ്റ്റർ കൃഷ്ണൻകുട്ടി ചോദിക്കുകയുണ്ടായി' ക ക൦൭-ൽ പാസായ നിയമത്തിന്റെ ഫലമായിട്ടാണൊ കുറികളുടെ എണ്ണം ചുരുങ്ങിയതു് എന്നു്. എനിക്കു് അതിനെപ്പറ്റി തീച്ചപറയുവാൻ സാദ്ധ്യമല്ല. കുറികൾ നടത്തുന്നതിനു പ്രതിബന്ധമില്ലാതിരുന്ന കാലത്തുണ്ടായിരുന്ന സൌകര്യങ്ങൾ തീച്ചയായും ഈ നിയമം വന്നതിനുശേഷം ഇല്ലാതായതുകൊണ്ടായിരിക്കണം വളരെ കുറികളും നടത്താതിരിക്കുന്നതെന്നാണു് ഞാൻ വിചാരിക്കുന്നതു്. അതാണു് ഈ ബിൽ അവതരിപ്പിക്കുന്നതിനുള്ള കാരണങ്ങളിൽ ഒന്നായി ഇവിടെ പറഞ്ഞിട്ടുള്ളതും. കുറികൾ കൂടുതലായി ഉണ്ടായിരുന്നതു കുറഞ്ഞുവന്നപ്പോൾ ഇങ്ങിനെ കർശ്ശമായ ഒരു നിയമം കൊണ്ടുവരേണ്ട ആവശ്യമില്ലെന്നാണു് ഞാൻ പറയുന്നതു്. ക ൦ ൭-ലെ നിയമത്തിലുള്ള ചില വകുപ്പുകളുടെ വ്യാഖ്യാനത്തിൽ അഭിപ്രായവ്യത്യാസം വരുത്തുന്ന നിയമമാണിതു്. ക ൦ ൭-ലെ വകുപ്പിൽ പറയുന്നതു് ഏതെങ്കിലും ഒരു ഫോർമാൻ കുറി നടത്തണമെന്നുദ്ദേശിക്കുന്നുണ്ടെങ്കിൽ അയാൾ കുറി സംഖ്യയുടെ ഇരട്ടിക്കു് ഈടു കൊടുക്ക

* Speech not corrected by the hon'ble member.

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ണമെന്നുണ്ട്. എന്നാൽ കുറിയിൽ ചേരുന്നവരുടെ കൂട്ടുകാർ സമ്മതിക്കുന്നപക്ഷം അവരുടെ രേഖാമൂലമായ സമ്മതം വാങ്ങിക്കൊണ്ട് ഈടുകൂടാതെ നടത്താമെന്നാണ് ഈ വകുപ്പിൽ പറയുന്നതു്. അങ്ങിനെ മിക്കവാറും ഈടു കൂടാതെയാണ് ഫോർമാന്മാർ കുറികൾ നടത്തിയിരുന്നതു്. അതിൽ എത്രത്തോളം ദോഷമുണ്ടെന്നുള്ളതിനെ സംബന്ധിച്ച് കണക്കൊന്നുമില്ല. എന്നാൽ ഈ പുതിയ റഗുലേഷൻ ക-ാം വകുപ്പുകൊണ്ട് മേലാൽ തുടങ്ങുന്നതായ കുറികൾക്ക ഇതു കാലാവധിക്കുള്ളിൽ കുറി സംഖ്യക്ക് ഈടു കൊടുക്കണമെന്നുള്ള നിയമം വരുന്നുണ്ട്. ഈ വകുപ്പിനെ സംബന്ധിച്ച് ഒരു ഭേദഗതി കൊണ്ടുവരുവാൻ വേണ്ടി ഒരു മെമ്പരും ഒന്നും പ്രവൃത്തിച്ചിട്ടുള്ളതായി കാണാനില്ല. അതുകൊണ്ട് ഇതു് മിക്കവാറും ഈ സഭയിലെ എല്ലാ അനുദ്യോഗസ്ഥ ഡാമാജികന്മാരും സമ്മതിക്കുന്നുണ്ടെന്നു വിശ്വാസമാകുന്നു. ക ാ ൭-ലെ നിയമത്തിൽ രണ്ടു വകുപ്പുകളാണ് പ്രത്യക്ഷത്തിൽ വളരെ വിഷമമായിട്ടുള്ളതു്. അതായതു് ക ൪, ക ൽ ഈ വകുപ്പുകൾ. ഈ രണ്ടു വകുപ്പുകളും റഗുലേഷൻ പാസാക്കിയതിനുശേഷം തുടങ്ങുന്ന കുറികളെ മാത്രം ബാധിക്കുന്നവയാണ്. ഇന്നത്തെ അഡ്വക്കേറ്റ് ജനറൽ അന്നത്തെ അഡ്വക്കേറ്റ് ജനറലായിരുന്നുവെങ്കിൽ ഒരു പക്ഷെ അതേവരെ കുറി നടത്തിയതിനും ഈടുകൊള്ള ഡ്യായിംഗിനും കൂടിയുള്ള സംഖ്യ ഡെപ്പോസിറ്റ് ചെയ്യണമെന്ന തീർപ്പായും വാദിക്കുമായിരുന്നു. ക ാ ൭-ലെ നിയമത്തിൽ അതിനുമുമ്പു നടത്തിത്തുടങ്ങിട്ടുള്ള കുറികളേയുംകൂടി ഈ ക ൽ-ാം, ക ൽ-ാം, വകുപ്പുകൾ ബാധിക്കുന്നതായിരുന്നു. ഇത്രവമരെ കക്ഷ്യമായ വകുപ്പുകൾ വെച്ചാൽ കുറി നടത്തുന്നതിനു സാമ്പത്തികമായ ഗവർമ്മെണ്ടു മനസ്സിലാക്കിയതിന്റെ ഫലമായിട്ടാണ് മുമ്പുള്ള കുറികൾക്ക് ഈ നിയമം ബാധകമല്ലെന്നു വെച്ചിട്ടുള്ളതു്. അതിനുശേഷമുള്ള കുറികളെ മാത്രമേ ഈ രണ്ടു വകുപ്പുകളും ബാധിക്കുകയുള്ളുവെന്നു പറഞ്ഞിട്ടുണ്ട്. എന്നാൽ ഈ പുതിയ നിയമത്തിൽ അതിനുംപുറമെ ഈ രണ്ടു വകുപ്പുകൾകൂടി കൂട്ടിച്ചേർത്തിട്ടുണ്ട്. അതായതു് ക ന, ക ക ഈ വകുപ്പുകൾ. ക ന-ാമത്തെ വകുപ്പ് കമ്മീഷനെ സംബന്ധിച്ചുള്ളതാണ്. ഒരു കുറി തുടങ്ങി അവസാനിക്കുന്നതുവരെയും ഈ നിബന്ധനകൾ കുറിയിൽ ചേരുന്നവരേയും ഫോർമാനേയും ബാധിക്കുന്നതാണ്. കുറി സംഖ്യ ഡ്രാ ചെയ്യുന്നതിനു മാത്രമല്ല കുറി വട്ടമെത്തുന്നതുവരെയും ഈ നിയമം ബാധിക്കും.

സാധാരണയായിട്ട് കച്ചവടക്കാരുടെ കാര്യംതന്നെ എടുത്തുനോക്കാം. ഇതിനെ സംബന്ധിച്ചു മിസ്റ്റർ പൈക്കുതന്നെ നല്ലവണ്ണം അറിവുള്ളതാണ്. ഒരാൾ കച്ചവടം നടത്തുകയാണെങ്കിൽ ക ം ഇനം സാമാനങ്ങൾ കൊടുക്കുന്നപക്ഷം ആ ക ം ഇനങ്ങൾക്കും ഒരേ ക്രമത്തിലുള്ള വിലയല്ല വാങ്ങിക്കുക. ചിലതു ചേതപ്പെട്ടും ചിലതു ലാഭത്തോടും കൂടിയായിരിക്കും കൊടുക്കുന്നതു്. അവസാനം ആ ലാഭചേതങ്ങൾ തമ്മിൽ മുട്ടിച്ചു് നോക്കുമ്പോൾ ആ കച്ചവടത്തിൽ ലാഭമാണെങ്കിലായിട്ടുള്ളതെന്നു മനസ്സിലാകും. അതുപോലെയാണ് ഈ കുറി എന്നുള്ളതും. മറ്റുള്ളവരെ വഞ്ചിക്കുകയെന്നുള്ള മനോഭാവം കൂടാതു പ്രവൃത്തിക്കുന്നപക്ഷം ഒരിക്കലും നഷ്ടമുണ്ടാകാനിടയില്ല. പിന്നെ ടസ്സിയുടെ കാര്യം നോക്കുകയാണെങ്കിൽ ഡെക്കുറിട്ടിയെ സംബന്ധിച്ചിടത്തോളമുള്ള ഐഡിയ കച്ചവടത്തിൽ ചെലുത്തിയാൽ വിഷമമാകും. ടസ്സിയാണെങ്കിൽ ക ം ം-ക്കു ക ം ം ശതമാനം ഡെക്കുറിട്ടി ആവശ്യമാണ്. ടസ്സി അല്ലെങ്കിൽ അതുമല്ല ഡെക്കുറിട്ടി വേണമെന്നു പറയുന്നതിൽ അർത്ഥമില്ല. ആളുകൾ സാധാരണയായി കുറിയിൽ ചേരുന്നതു് അതു ശരിയായ സ്ഥാപനമാണോ; അതു നടത്തുന്ന ആൾക്കു് എത്ര ധനസ്ഥിതിയുണ്ടു്; അയാൾ നല്ല ആളോ കൊള്ളരുതാത്തവനോ വഞ്ചകനോ എങ്ങനെയുള്ളവനാണ് എന്നെല്ലാം നോക്കിയിട്ടാണ്. അതുകൊണ്ടു ടസ്സി എന്നുള്ള കാര്യത്തിൽ ക്രെഡിറ്ററിന്റെ

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ചോദ്യത്തിനവകാശമില്ല. ഫോർമാനും കുറിയിൽ ചേരുന്നവരും തമ്മിലുള്ള പരസ്പര വിശ്വാസത്തിനു ഹാനിതട്ടിയാൽ മാത്രമേ വിഷമമുള്ളു. കുറിയെ സംബന്ധിച്ചുള്ള കാര്യത്തിൽ ഉണ്ടാക്കുന്ന പുതിയ കുറി റഗുലേഷൻ ഗൌരവമായ നിലയിൽ എടുക്കേണ്ടതാണെന്നുള്ള മനോഭാവം ഗമ്മെണ്ടിനുണ്ടായിക്കാണുന്നതിൽ എനിക്കു വളരെ സന്തോഷമുണ്ട്. എന്നാൽ ഒരു കൈ കൊണ്ടു കൊടുത്തതായ ഒരവകാശത്തെ മറെറ കൈകൊണ്ടു എടുത്തുകളയുന്നതായിട്ടാണു് ഈ രണ്ടു പുതിയ വകുപ്പുകൾ വെച്ചിട്ടുള്ളതുകൊണ്ടു കാണുന്നതു്. പഴയ വകുപ്പു നോക്കിയാൽ ഇപ്പോഴത്തെ വകുപ്പിലും കുറെക്കൂടി കർശ്ശമായ വ്യാഖ്യാനം കൊടുത്തുകാണുന്നുണ്ടു്. എനിക്കു് മറവുള്ള കുറികളെ സംബന്ധിച്ചു് വലിയ വിവരമില്ലെങ്കിലും തൃശ്ശിവപേരൂരിലുള്ള ചില മാസക്കുറികളെ സംബന്ധിച്ചു് അറിവുള്ളതിൽ ഒന്നു രണ്ടു് സംഗതികൾ ഈ സഭയുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരാം. അവിടെ സാധാരണ ഒരു കുറി തുടങ്ങുന്നതു് ഫഫ നറുക്കു്, ഫഫ മാസം, നറുക്കു് ഒന്നിനു് ൫൦ രൂപാവീതമാണു്. അങ്ങിനെയുള്ള ഒരു കുറിയിൽ പുറമെനിന്നും ഫഫ ആളുകളെ ചേർത്തു് ആ കുറി നറുക്കെടുക്കുന്ന സമ്പ്രദായം ഇതുവരെ ഉണ്ടായിട്ടില്ല. ഫഫ നറുക്കു് തികഞ്ഞിട്ടു് നറുക്കെടുക്കുവാൻ വിരോധമുള്ള കാര്യമല്ലെങ്കിലും അതത്രയോളം താമസിക്കാറില്ല. പത്തോ അൻപതോ, പത്തോ എഴുപതോ ആയാൽ നറുക്കെടുക്കാറുണ്ടു്. അങ്ങിനെയുള്ളവക്കു് ഈ പുതിയ വകുപ്പു് പാസ്സായാൽ കുറി നടത്തുവാൻ വിഷമം വരുമെന്നാണു് ഞാൻ പറയുന്നതു്. അങ്ങിനെ ഏതാനും നറുക്കെടുത്തു കഴിയുമ്പോൾ കുറെ ആളുകൾ കുറയും; പിന്നെയും പത്തോ ഇരുപതോ നറുക്കു ബാക്കികിടക്കും. കുറിക്കമ്മിറി ഒരു കണക്കെടുത്തപ്പോൾ പിരിയേണ്ട സംഖ്യയിൽ നൂറു ശതമാനമാണു് സംഖ്യ പിരിയുന്നതെന്നു് മൊത്തത്തിൽ കണക്കെടുത്തിട്ടുണ്ടു്. അതു് ഒരു ആവരേജു് കണക്കുമാത്രമാണു്. അങ്ങിനെ വരുമ്പോൾ എതാണ്ടു് നൂറു ശതമാനം വരെ ഓരോ ഗഡുക്കളിൽ അപ്പോഴപ്പോൾ ഫോർമാന്റെ കയ്യിൽനിന്നാണു് കൊടുക്കേണ്ടിവരുന്നതു്. ഈ വകുപ്പു പാസ്സായാൽ ഇതു് കുറിയുടെ മരണമണി അടിക്കുന്നതായിരിക്കുമെന്നു് ഇവിടെ ഒരു സാമാജികൻ പറയുകയുണ്ടായി. അതിന്റെ ആവശ്യമുണ്ടോ എന്നാണു് പ്രധാനമായി നമുക്കു് ചിന്തിക്കുവാനുള്ളതു്. മുമ്പിലത്തെ വകുപ്പുകൊണ്ടു് പല ഉപകാരങ്ങളും ഫോർമാനു ലഭിക്കുന്നുണ്ടു്. ആ ഉപകാരത്തെ വർദ്ധിപ്പിച്ചു് അതിനെ പ്രോത്സാഹിപ്പിക്കുകയാണു് വേണ്ടതു്.

ഡെപ്യൂട്ടി പ്രസിഡണ്ടു്: ഫോർമാനു് സംഖ്യ കൊടുക്കുവാൻ സാധിക്കാത്ത കുറികൾ ഉണ്ടാകയില്ലേ? അതിലേക്കു് എന്തു പ്രൊവിഷൻ വെക്കും?

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: ഈ സെക്ഷൻപ്രകാരം ഒരു വിഷമം കൂടിയുണ്ടു്. ഒരു കുറിയിൽ ചേർന്നാൽ റഗുലറായിട്ടു് സംഖ്യ വെക്കുന്നവർ വളരെ കുറച്ചേ ഉണ്ടായിരിക്കയുള്ളു. പിന്നെ കുറിയിൽ ചേർന്നിട്ടു് ഡിഫാൾട്ടു് വരുത്തീട്ടുള്ള വക്കും സംഖ്യ കൊടുക്കണം ഈ കാരണങ്ങളാൽ അവരുടെ സെക്യൂറിറ്റികൊണ്ടു് മറവുള്ളവക്കു് ഗുണമാണുള്ളതു്. ഡിഫാൾട്ടു് വരുത്തീട്ടുള്ള സംഖ്യയുംകൂടി കൂട്ടിച്ചേർത്തു കൊടുക്കുന്നതു് ഫോർമാനാണു്.

ഡെപ്യൂട്ടി പ്രസിഡണ്ടു്: ബാക്കി വെക്കുവാനുള്ള പണത്തിനു് ഈടു കൊടുക്കുന്നില്ലെങ്കിൽ അതു് സബ്സ്ക്രൈബേഴ്സിനു് അപകടം വരുവാൻ കാരണമാകയില്ലേ? അങ്ങിനെ വരുമ്പോൾ അവരെ രക്ഷിക്കുവാനുള്ള പ്രൊവിഷൻ എന്താണു്?

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: ഇതേമാതിരി ഇന്ത്യൻ കമ്പനീസ് ആക്ടിലുള്ള പ്രൊവിഷൻകൊണ്ടു് പല ബാങ്കുകളും പൊളിയുന്നുണ്ടു്.

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ഡെപ്യൂട്ടി പ്രസിഡണ്ട്: ഈ ട കൊടുക്കാതെവരുമ്പോൾ സബ്സിഡൈ ബേഴ്സിന്റെ പണത്തിനു് എന്താണു് ഉറപ്പു്? കുറികൾ അധികവും പൊളിയുന്നതു് ഫോർമാനു് സംഖ്യ വെച്ചു നടത്തുവാൻ സാധിക്കാത്തതുകൊണ്ടായിരിക്കാം.

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: കുറി സംബന്ധമായ ഒരു പൈയും ഫോർമാനു് തൊടുവാൻ പാടില്ല. ആദ്യകാലത്തു കുറി തുടങ്ങുമ്പോൾ വെച്ചിട്ടുള്ള ഡെപ്പോസിറ്റിതന്നെ അവർക്കു് ഉറപ്പാണു്. മിടുക്കുവാരം ഫോർമാനു് പൈയിഡ് സബ്സ്ക്രൈബേഴ്സിനു് കൊടുക്കേണ്ടിവരുന്നതിൽ കൂടുതൽ സംഖ്യക്കു് ഈ ട കൊടുക്കേണ്ടിവരും. അതു് ഫോർമാൻ മുമ്പുതന്നെ കയ്യിൽനിന്നു് അഡ്വാൻസ്സായി കൊടുക്കുന്നുണ്ടു്.

ഡെപ്യൂട്ടി പ്രസിഡണ്ട്: പണം വാങ്ങിക്കുവാൻ ത്രാണിയുള്ളവരായിരിക്കുമല്ലൊ അവർ.

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: എസ്സു് എന്ന ഒരാൾ വളരെ ധനസ്ഥിതിയുള്ള ഒരാളാണെന്നു വിചാരിക്കുക. അയാൾക്കു കൊടുക്കുവാനുള്ള മനസ്ഥിതിക്കൂടി വേണം. അതില്ലെങ്കിലൊ?

ഡെപ്യൂട്ടി പ്രസിഡണ്ട്: പ്രാപ്തിയുണ്ടെങ്കിൽ അതിനു് പ്രയാസമില്ലല്ലൊ.

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: പ്രാപ്തിയുണ്ടായാൽമാത്രം പോരാ, മനസ്ഥിതിക്കൂടി വേണം.

മിസ്റ്റർ വി. കെ. കൃഷ്ണൻകുട്ടി: ഈ പറഞ്ഞ വകുപ്പു് മുഴുവൻ പാടില്ലെന്നോ, അതോ ഇതിന്റെ മൂന്നിലൊരു ഭാഗം മാത്രം പാടില്ലെന്നൊ, എന്താണു് പറയുന്നതു്?

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: ഇതു് ഗവമ്മെണ്ടു് അമെൻഡുമെന്റാണു്.

1913-ൽ പാസ്സായ നിയമത്തിൽ 1918, 1921 ഈ രണ്ടു വകുപ്പുകളും നടപ്പിൽ വന്നതിനുശേഷം ഉള്ള പുതിയ കുറികൾക്കു് ബാധകമാകത്തക്ക നിയമമായിട്ടാണു് അതു് നീക്കിവെച്ചിട്ടുള്ളതു്.

മിസ്റ്റർ വി. കെ. കൃഷ്ണൻകുട്ടി: മേലാൽ വെക്കുവാനുള്ള സംഖ്യക്കു് ഫോർമാൻകൂടി സെക്യൂരിറ്റി വെക്കണമെന്നാണു് പറയുന്നതു്. അതിനു വല്ല വിരോധവുമുണ്ടോ?

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: മുടക്കു വന്നിട്ടുള്ള വകയിൽ വെച്ചിട്ടുള്ള വളരെ സംഖ്യ ഫോർമാന്റെ കയ്യിൽനിന്നും കുറിയിൽ കിടക്കുന്നുണ്ടു്. പലേ വഴികളിൽക്കൂടിയും നൂലാമാലപോലെ ഫോർമാൻ കുറിയിൽ ബന്ധപ്പെട്ടുകിടക്കുന്നുണ്ടു്. കുറിയിൽ ഉള്ള സംഖ്യ ഫോർമാന്റെ സ്വന്ത ആവശ്യത്തിനു ഉപയോഗിക്കുവാൻ പാടില്ല.

മിസ്റ്റർ വി. കെ. കൃഷ്ണൻകുട്ടി: പണം വാങ്ങുന്ന സമയം അതു് സ്വന്ത ആവശ്യത്തിനോ മറ്റാവശ്യങ്ങൾക്കോ ഏതു വിധത്തിലാണു് ഉപയോഗിക്കുക എന്നുള്ളതിനു് വകുപ്പില്ല. അതുകൊണ്ടു് ഫോർമാനേയും ഒരു സബ്സ്ക്രൈബറായിട്ടു കണക്കാക്കണം.

മിസ്റ്റർ സി. ആർ. ഇയ്യുണ്ണി: ഫോർമാൻ തന്റെ കയ്യിൽനിന്നും അഡ്വാൻസായി സംഖ്യ കൊടുക്കുന്നുണ്ടു്. ആ സെക്യൂരിറ്റിതന്നെയാണു് ഇതിനു് ഉറപ്പു്. ആ സ്ഥിതിക്കു് അപ്പോഴപ്പോൾ പ്രത്യേകം ഉറപ്പു കൊടുക്കേണ്ടതിന്റെ ആവശ്യം

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എന്താണ്? കുറി സംഖ്യ എടുത്തു് ഫോർമാന്റെ ഇഷ്ടംപോലെ പുതുതെങ്കിലും ക്രയവിക്രയം ചെയ്യാമെന്നുണ്ടെങ്കിൽ പക്ഷെ സമാധാനമുണ്ട്. ഇടയിട്ടും നടുവിലായിട്ടും പല വഴികളിലും അനവധി പണം ഓഡ്വാൻസ്സായി കൊടുത്തും പെരുവിരുട്ടിവെച്ചുമാണ് കുറി നടത്തിക്കൊണ്ടുപോകുന്നതു്.

എനിക്കു പറയുവാനുള്ളതു് പട്ടണസംബന്ധമായ കാര്യങ്ങളെ സംബന്ധിച്ചു് എന്തെങ്കിലും നിയമമുണ്ടാക്കുമ്പോൾ അതിനു് പലതരത്തിലുള്ള വശങ്ങളും നോക്കേണ്ടതുണ്ടെന്നാണു്. ഓരോ ആവശ്യത്തിനും ഇടം കൊടുക്കണമെന്നുള്ള പല്ലവി കൊണ്ടു് വരുന്ന ഭവിഷ്യത്തുകൾ എന്താണെന്നുള്ളതുകൂടി നോക്കേണ്ടതുണ്ടു്. മുമ്പിലത്തേയും ഇപ്പോഴത്തേയും സാമ്പത്തിക നിലതന്നെ വളരെ വ്യത്യാസമുണ്ടു്. ഗാർഹസ്ഥികാധിപത്യനവും സാമാന്യങ്ങൾക്കു വിലക്കുറവും ഉള്ള കാലമായിരുന്നു് ഇന്നു നടപ്പുള്ള നിയമങ്ങൾ കൂടി വരുമ്പോൾ വളരെ കഴപ്പുണ്ടു്. അതുകൊണ്ടു് ഗവണ്മെണ്ടു് ദയവായി ഈ കാര്യത്തെപ്പറ്റി ഒന്നുകൂടി ആലോചിച്ചു്, വളരെ മനസ്സിരുത്തി കുറിയെന്നുള്ള സ്ഥാപനം മേലും നടക്കണമെന്നും അതിനെ പ്രോത്സാഹിപ്പിക്കണമെന്നും ഉള്ള ബോധ്യത്തോടുകൂടി, അതു് ഇവിടെ നടുവളയ്ക്കിയ കുടവയറിയാതൊന്നും മറവു സ്ഥലങ്ങളിൽനിന്നു് ഉറക്കമതി ചെയ്യിട്ടുള്ളതല്ലെന്നും കുടവയർ തഴച്ചുവളർന്നു് അതിന്റെ തണലിൽ അനവധി ജനങ്ങൾക്കു് ഉപജീവനം ചെയ്യുന്നതിനു് ഉടയാതാണമെന്നും ഉള്ള പ്രാർത്ഥനയോടുകൂടി ഞാൻ എന്റെ പ്രസംഗത്തെ അവസാനിപ്പിച്ചുകൊള്ളുന്നു.

The House rose for the day at 5 p.m.

C. J. MATHEW
Secretary to the Council

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